

# CASES

DETERMINED BY THE

## SUPREME COURT OF CANADA

### ON APPEAL

FROM

### DOMINION AND PROVINCIAL COURTS

JACK STEELE ..... APPELLANT;

AND

HIS MAJESTY THE KING ..... RESPONDENT.

ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH  
COLUMBIA

1923  
\*Dec. 15.

*Criminal law—Appeal—Bail—Jurisdiction—Section 1019 Cr. C.*

A judge of the Supreme Court of Canada has no jurisdiction to admit to bail an accused person pending his appeal to this court, such jurisdiction being conferred by section 1019 (1) of the Criminal Code upon the Chief Justice of the appellate court or a judge of that court designated by him.

APPLICATION on behalf of the appellant for an order that he be admitted to bail pending his appeal to this court from the judgment of the Court of Appeal for British Columbia.

The appellant was convicted on October 16, 1923, on a charge of having had carnal knowledge of a girl under sixteen, and sentenced to imprisonment for one year. Appeal was taken from the sentence to the Court of Appeal for British Columbia, and the same was dismissed on November 22, 1923, but one judge of the Court of Appeal dissented. Under section 1024 of the Criminal Code, the appellant then appealed to the Supreme Court of Canada.

The appellant was admitted to bail pending the hearing before the court of first instance, and also pending his appeal to the Court of Appeal for British Columbia; but, upon application to the Court of Appeal to admit him to bail pending the determination of his appeal to this court, the Chief Justice of the Court of Appeal held that that court had no jurisdiction, presumably considering that, in-

\*PRESENT:—Sir Louis Davies C.J. in chambers.

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 The Chief  
 Justice

asmuch as an appeal had been taken to the Supreme Court of Canada, the Court of Appeal was *functus officio*. Hence the application to this court.

Section 1019 (1) of the Criminal Code, as enacted by section 9 of 13-14 George V, c. 41, reads as follows:—

1019 (1). The Chief Justice or the Acting Chief Justice of the Court of Appeal, or a judge of that court to be designated by him, may, if it seems fit, on the application of an appellant, admit the appellant to bail pending the determination of his appeal.

*Smellie K.C.* for the appellant.

THE CHIEF JUSTICE.—On this application coming before me in chambers I could not find in the Criminal Code jurisdiction given me to make the order asked for. After consultation with such of my brother judges as were available, forming with myself a majority of the court, we have come to the conclusion that this court has no jurisdiction to make the order but that section 1019 (1) of the Criminal Code confers jurisdiction upon the Chief Justice or the acting Chief Justice of the Provincial Court of Appeal, or upon a judge of that court to be designated by him, to admit the appellant to bail pending the determination of his appeal. The latter words of the section “the determination of his appeal” must be construed as extending to the continuance of his appeal from the provincial Court of Appeal to this court and that therefore the jurisdiction to admit the appellant to bail pending the appeal here rests with the judge specially named in that section.

Application is refused.

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